

- b) culturing said allantoic tissue *in vitro*,
- c) treating the allantoic tissue with a test compound; and
- d) observing vasculogenesis originating in the allantoic tissue, wherein an alteration in the vasculogenesis of allantoic tissue treated with the compound as compared to allantoic tissue not treated with the compound indicates that the compound alters vasculogenesis of allantoic tissue.

#### REMARKS

The previous Office Action of March 19, 2003 has rejected claims 27 and 28 under 35 U.S.C. § 102(b) as being anticipated by Downs (February, 1995). In light of the arguments below and the previously enclosed Declaration, Applicants respectfully request reconsideration.

#### § 102 Rejection

The March 19, 2003 Office Action has rejected claims 27 and 28 as being anticipated by Downs (February, 1995). The Examiner has cited Downs as "specifically observing the vasculogenesis of the allantoic stump . . . ." The Examiner has summarized Applicant's previous positions by noting that

"Applicants argue Downs did not teach observing vasculogenesis originating in the allantois.

Applicant's argument is not persuasive because Fig. 4B clearly shows Downs observed vasculogenesis within the allantoic stump."

Applicants again reiterate that Downs, 1995 did not demonstrate observation of vasculogenesis.

Applicant asserts that Downs, et al. does not teach vasculogenesis originating in the allantois as opposed to vascularization which may originate elsewhere. The reference does not demonstrate that allantoic mesoderm forms blood vessel *de novo*, as would be required to demonstrate "vasculogenesis" as opposed to "vascularization."

As prior Declarations of Inventor Karen Downs assert, the Applicant at the time of the cited Downs, et al. article did not realize that vasculogenesis was occurring in the allantoic tissue. Applicant draws the Examiner's attention to Downs, et al., Developmental Biology 233:347-364 (2001) where Dr. Downs cites Downs, et al., 1998 and notes that "the murine allantois vascularizes initially by vasculogenesis rather than by invasion from the vitelline or fetal vasculatures." As Applicant's attorney has pointed out to the Examiner, it is this 1998 Downs, et al. paper that forms a basis for the present application.

Applicants have previously enclosed a Declaration of Inventor Karen Downs, the author of Downs, 1995. Dr. Downs clarifies that the word vasculogenesis was used in

Downs, 1995 to mean "vascularization" of the allantoic regenerates. Dr. Downs clarifies that the reference does not demonstrate that allantoic mesoderm forms blood vessels "de novo" in a process of vasculogenesis. The word choice was simply an error.

Applicants ask the Examiner to telephone the below-identified attorney before issuing an Action in the above-identified case. Applicants and their attorney wish to discuss with the Examiner the advisability of Applicants submitting a Declaration by one of skill in the art attesting to Applicant's inability in Downs, 1995 to have correctly used the word "vasculogenesis."

Applicant's and their attorney wish to discuss with the Examiner the appropriate content of this Declaration.

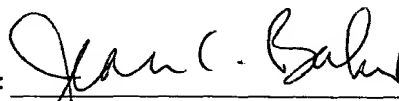
Applicant believes that the claims are in condition for allowance and respectfully request allowance. A Petition and Fee for Three Months Extension of Time and RCE are enclosed. If any further fees are necessary, please charge Deposit Account 17-0055.

Respectfully submitted,

Karen M. Downs

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